

AMENDED IN SENATE JULY 1, 2009
AMENDED IN ASSEMBLY MAY 4, 2009
AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 852

Introduced by Assembly Member Fong

February 26, 2009

An act to amend Section 441 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Fong. Property taxation: statement.

Existing law requires taxpayers that meet certain criteria to file a signed property statement with the county assessor. Existing law authorizes the county assessor to refuse to accept any property statement that he or she determines to be in error ~~and to accept the filing of a property statement by the use of electronic media.~~

This bill would authorize the county assessor to refuse to accept any property statement that is not in the requested format and to require the *electronic* filing of a property statement ~~by use of electronic media~~, as provided. This bill would require the county assessor, if he or she requires ~~the filing of a property statement by use of electronic media~~ *to be filed electronically*, to notify the taxpayer, in writing, of this requirement, ~~as provided~~. This bill would require the State Board of Equalization to adopt equipment category codes, as specified, and would require taxpayers filing a property statement *electronically* to use the equipment category codes, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 441 of the Revenue and Taxation Code*
2 *is amended to read:*

3 441. (a) Each person owning taxable personal property, other
4 than a manufactured home subject to Part 13 (commencing with
5 Section 5800), having an aggregate cost of one hundred thousand
6 dollars (\$100,000) or more for any assessment year shall file a
7 signed property statement with the assessor. Every person owning
8 personal property that does not require the filing of a property
9 statement or real property shall, upon request of the assessor, file
10 a signed property statement. Failure of the assessor to request or
11 secure the property statement does not render any assessment
12 invalid.

13 (b) The property statement shall be declared to be true under
14 the penalty of perjury and filed annually with the assessor between
15 the lien date and 5 p.m. on April 1. The penalty provided by Section
16 463 applies for property statements not filed by May 7. If May 7
17 falls on a Saturday, Sunday, or legal holiday, a property statement
18 that is mailed and postmarked on the next business day shall be
19 deemed to have been filed between the lien date and 5 p.m. on
20 May 7. If, on the dates specified in this subdivision, the county's
21 offices are closed for the entire day, that day is considered a legal
22 holiday for purposes of this section.

23 (c) The property statement may be filed with the assessor
24 through the United States mail, properly addressed with postage
25 prepaid. For purposes of determining the date upon which the
26 property statement is deemed filed with the assessor, the date of
27 postmark as affixed by the United States Postal Service, or the
28 date certified by a bona fide private courier service on the envelope
29 containing the application, shall control. This subdivision shall be
30 applicable to every taxing agency, including, but not limited to, a
31 chartered city and county, or chartered city.

32 (d) (1) At any time, as required by the assessor for assessment
33 purposes, every person shall make available for examination
34 information or records regarding his or her property or any other
35 personal property located on premises he or she owns or controls.

1 In this connection details of property acquisition transactions,
2 construction and development costs, rental income, and other data
3 relevant to the determination of an estimate of value are to be
4 considered as information essential to the proper discharge of the
5 assessor's duties.

6 (2) (A) This subdivision shall also apply to an owner-builder
7 or an owner-developer of new construction that is sold to a third
8 party, is constructed on behalf of a third party, or is constructed
9 for the purpose of selling that property to a third party.

10 (B) The owner-builder or owner-developer of new construction
11 described in subparagraph (A), shall, within 45 days of receipt of
12 a written request by the assessor for information or records, provide
13 the assessor with all information and records regarding that
14 property. The information and records provided to the assessor
15 shall include the total consideration provided either by the
16 purchaser or on behalf of the purchaser that was paid or provided
17 either, as part of or outside of the purchase agreement, including,
18 but not limited to, consideration paid or provided for the purchase
19 or acquisition of upgrades, additions, or for any other additional
20 or supplemental work performed or arranged for by the
21 owner-builder or owner-developer on behalf of the purchaser.

22 (e) In the case of a corporate owner of property, the property
23 statement shall be signed either by an officer of the corporation or
24 an employee or agent who has been designated in writing by the
25 board of directors to sign the statements on behalf of the
26 corporation.

27 (f) In the case of property owned by a bank or other financial
28 institution and leased to an entity other than a bank or other
29 financial institution, the property statement shall be submitted by
30 the owner bank or other financial institution.

31 (g) The assessor may refuse to accept any property statement
32 he or she determines to be in error *or not in the requested format*.

33 (h) If a taxpayer fails to provide information to the assessor
34 pursuant to subdivision (d) and introduces any requested materials
35 or information at any assessment appeals board hearing, the
36 assessor may request and shall be granted a continuance for a
37 reasonable period of time. The continuance shall extend the
38 two-year period specified in subdivision (c) of Section 1604 for a
39 period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. ~~Electronic~~ *For purposes of this subdivision, electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.*

(l) (1) The assessor may require the property statement to be filed electronically.

(2) A property statement that is filed electronically pursuant to this subdivision shall satisfy both of the following:

(A) Be filed using electronic Internet media in a form and pursuant to methods as may be specified by the assessor and approved by the board.

(B) In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), be authenticated pursuant to methods specified by the assessor and approved by the board.

1 (3) *If an assessor requires a property statement to be filed*
2 *electronically pursuant to this subdivision, the assessor shall notify*
3 *the taxpayer, in writing, of this requirement.*

4 (4) *For the first year in which an assessor requires a taxpayer*
5 *to file a property statement electronically pursuant to this*
6 *subdivision, the taxpayer may, for that one year, comply with all*
7 *existing filing requirements and deadlines with paper filings. After*
8 *that first year, and in all subsequent years, the taxpayer shall file*
9 *the property statement electronically pursuant to this subdivision.*

10 (5) *This subdivision shall only apply to taxpayers owning taxable*
11 *personal property, other than a manufactured home, having an*
12 *aggregate assessed value of one hundred thousand dollars*
13 *(\$100,000) or more in the immediate prior year.*

14 (6) *The assessor may, in any given year, waive the electronic*
15 *filing requirements of this subdivision for a taxpayer who*
16 *demonstrates that this requirement would place an unreasonable*
17 *burden on his or her business.*

18 ~~(t)~~

19 (m) (1) After receiving the notice required by Section 1162,
20 the manager in control of a fleet of fractionally owned aircraft
21 shall file with the lead county assessor's office one signed property
22 statement for all of its aircraft that have acquired situs in the state,
23 as described in Section 1161.

24 (2) Flight data required to compute fractionally owned aircraft
25 allocation under Section 1161 shall be segregated by airport.

26 ~~(m)~~

27 (n) (1) After receiving the notice required by paragraph (5) of
28 subdivision (b) of Section 1153.5, a commercial air carrier whose
29 certificated aircraft is subject to Article 6 (commencing with
30 Section 1150) of Chapter 5 shall file with the lead county assessor's
31 office designated under Section 1153.5 one signed property
32 statement for its personal property at all airport locations and
33 fixtures at all airport locations.

34 (2) Each commercial air carrier may file one schedule for all of
35 its certificated aircraft that have acquired situs in this state under
36 Section 1151.

37 (3) Flight data required to compute certificated aircraft allocation
38 under Section 1152 and subdivision (g) of Section 202 of Title 18
39 of the California Code of Regulations shall be segregated by airport
40 location.

(4) Beginning with the 2006 assessment year, a commercial air carrier may file a statement described in this subdivision electronically by means of the California Assessor's Standard Data Record (SDR) network. If the SDR is not equipped to accept electronic filings for the 2006 assessment year, an air carrier may file a printed version of its property statement for that year with its lead county assessor's office.

(5) This subdivision shall remain in effect only until December 31, 2010, and as of that date is repealed.

(o) (1) On or before January 1, 2011, the State Board of Equalization shall, in consultation with the California Assessors' Association and representatives of taxpayers, adopt equipment category codes for property statements filed electronically pursuant to subdivision (l) that request these codes.

(2) On and after January 1, 2012, taxpayers filing property statements electronically pursuant to subdivision (l) shall use the equipment category codes specified in paragraph (1).

~~SECTION 1. Section 441 of the Revenue and Taxation Code is amended to read:~~

~~441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.~~

~~(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.~~

1 ~~(e) The property statement may be filed with the assessor~~
2 ~~through the United States mail, properly addressed with postage~~
3 ~~prepaid. For purposes of determining the date upon which the~~
4 ~~property statement is deemed filed with the assessor, the date of~~
5 ~~postmark as affixed by the United States Postal Service, or the~~
6 ~~date certified by a bona fide private courier service on the envelope~~
7 ~~containing the application, shall control. This subdivision shall be~~
8 ~~applicable to every taxing agency, including, but not limited to, a~~
9 ~~chartered city and county, or chartered city.~~

10 ~~(d) (1) At any time, as required by the assessor for assessment~~
11 ~~purposes, every person shall make available for examination~~
12 ~~information or records regarding his or her property or any other~~
13 ~~personal property located on premises he or she owns or controls.~~
14 ~~In this connection details of property acquisition transactions;~~
15 ~~construction and development costs, rental income, and other data~~
16 ~~relevant to the determination of an estimate of value are to be~~
17 ~~considered as information essential to the proper discharge of the~~
18 ~~assessor's duties.~~

19 ~~(2) (A) This subdivision shall also apply to an owner-builder~~
20 ~~or an owner-developer of new construction that is sold to a third~~
21 ~~party, is constructed on behalf of a third party, or is constructed~~
22 ~~for the purpose of selling that property to a third party.~~

23 ~~(B) The owner-builder or owner-developer of new construction~~
24 ~~described in subparagraph (A), shall, within 45 days of receipt of~~
25 ~~a written request by the assessor for information or records, provide~~
26 ~~the assessor with all information and records regarding that~~
27 ~~property. The information and records provided to the assessor~~
28 ~~shall include the total consideration provided either by the~~
29 ~~purchaser or on behalf of the purchaser that was paid or provided~~
30 ~~either, as part of or outside of the purchase agreement, including,~~
31 ~~but not limited to, consideration paid or provided for the purchase~~
32 ~~or acquisition of upgrades, additions, or for any other additional~~
33 ~~or supplemental work performed or arranged for by the~~
34 ~~owner-builder or owner-developer on behalf of the purchaser.~~

35 ~~(e) In the case of a corporate owner of property, the property~~
36 ~~statement shall be signed either by an officer of the corporation or~~
37 ~~an employee or agent who has been designated in writing by the~~
38 ~~board of directors to sign the statements on behalf of the~~
39 ~~corporation.~~

1 ~~(f) In the case of property owned by a bank or other financial~~
2 ~~institution and leased to an entity other than a bank or other~~
3 ~~financial institution, the property statement shall be submitted by~~
4 ~~the owner bank or other financial institution.~~

5 ~~(g) The assessor may refuse to accept any property statement~~
6 ~~he or she determines to be in error or not in the requested format.~~

7 ~~(h) If a taxpayer fails to provide information to the assessor~~
8 ~~pursuant to subdivision (d) and introduces any requested materials~~
9 ~~or information at any assessment appeals board hearing, the~~
10 ~~assessor may request and shall be granted a continuance for a~~
11 ~~reasonable period of time. The continuance shall extend the~~
12 ~~two-year period specified in subdivision (c) of Section 1604 for a~~
13 ~~period of time equal to the period of the continuance.~~

14 ~~(i) Notwithstanding any other law, every person required to file~~
15 ~~a property statement pursuant to this section shall be permitted to~~
16 ~~amend that property statement until May 31 of the year in which~~
17 ~~the property statement is due, for errors and omissions not the~~
18 ~~result of willful intent to erroneously report. The penalty authorized~~
19 ~~by Section 463 does not apply to an amended statement received~~
20 ~~prior to May 31, provided the original statement is not subject to~~
21 ~~penalty pursuant to subdivision (b). The amended property~~
22 ~~statement shall otherwise conform to the requirements of a property~~
23 ~~statement as provided in this article.~~

24 ~~(j) This subdivision shall apply to the oil, gas, and mineral~~
25 ~~extraction industry only. Any information that is necessary to file~~
26 ~~a true, correct, and complete statement shall be made available by~~
27 ~~the assessor, upon request, to the taxpayer by mail or at the office~~
28 ~~of the assessor by February 28. For each business day beyond~~
29 ~~February 28 that the information is unavailable, the filing deadline~~
30 ~~in subdivision (b) shall be extended in that county by one business~~
31 ~~day, for those statements affected by the delay. In no case shall~~
32 ~~the filing deadline be extended beyond June 1 or the first business~~
33 ~~day thereafter.~~

34 ~~(k) Pursuant to this section, the assessor may require the filing~~
35 ~~of a property statement by the use of electronic media. Property~~
36 ~~statements shall be filed and authenticated in a form and pursuant~~
37 ~~to methods, including electronic media, as may be prescribed by~~
38 ~~the board.~~

1 ~~(1) This subdivision shall only apply to taxpayers with properties~~
2 ~~with assessed value of at least one hundred thousand dollars~~
3 ~~(\$100,000) in the prior year.~~

4 ~~(2) If an assessor requires the filing of a property statement by~~
5 ~~the use of electronic media pursuant to this subdivision, the~~
6 ~~assessor shall notify the taxpayer, in writing, of the requirement~~
7 ~~to file electronically pursuant to this subdivision.~~

8 ~~(3) (A) For the first year in which an assessor requires a~~
9 ~~taxpayer to file electronically pursuant to this subdivision, the~~
10 ~~taxpayer may, for that one year, comply with all existing filing~~
11 ~~requirements and deadlines with paper filings. After that first year,~~
12 ~~and in all subsequent years, the taxpayer shall file electronically~~
13 ~~pursuant to this subdivision.~~

14 ~~(B) The one year period to comply with all existing filing~~
15 ~~requirements and deadlines with paper filings authorized pursuant~~
16 ~~to subparagraph (A) shall begin on the date the notification required~~
17 ~~by paragraph (2) is sent to the taxpayer.~~

18 ~~(4) In lieu of the signature required by subdivision (a) and the~~
19 ~~declaration under penalty of perjury required by subdivision (b);~~
20 ~~property statements filed using electronic media shall be~~
21 ~~authenticated pursuant to methods specified by the assessor and~~
22 ~~approved by the board.~~

23 ~~(5) For purposes of this subdivision, electronic media includes,~~
24 ~~but is not limited to, computer modem, magnetic media, optical~~
25 ~~disk, and facsimile machine.~~

26 ~~(l) (1) After receiving the notice required by Section 1162, the~~
27 ~~manager in control of a fleet of fractionally owned aircraft shall~~
28 ~~file with the lead county assessor's office one signed property~~
29 ~~statement for all of its aircraft that have acquired situs in the state,~~
30 ~~as described in Section 1161.~~

31 ~~(2) Flight data required to compute fractionally owned aircraft~~
32 ~~allocation under Section 1161 shall be segregated by airport.~~

33 ~~(m) (1) After receiving the notice required by paragraph (5) of~~
34 ~~subdivision (b) of Section 1153.5, a commercial air carrier whose~~
35 ~~certificated aircraft is subject to Article 6 (commencing with~~
36 ~~Section 1150) of Chapter 5 shall file with the lead county assessor's~~
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7 ~~location.~~

8 ~~(4) Beginning with the 2006 assessment year, a commercial air~~
9 ~~carrier may file a statement described in this subdivision~~
10 ~~electronically by means of the SDR network. If the SDR is not~~
11 ~~equipped to accept electronic filings for the 2006 assessment year,~~
12 ~~an air carrier may file a printed version of its property statement~~
13 ~~for that year with its lead county assessor's office.~~

14 ~~(5) This subdivision shall remain in effect only until December~~
15 ~~31, 2010, and as of that date is repealed.~~

16 ~~(n) (1) On or before January 1, 2011, the State Board of~~
17 ~~Equalization, in consultation with the California Assessors'~~
18 ~~Association, shall adopt equipment category codes. The board~~
19 ~~shall adopt these category codes in consultation with the California~~
20 ~~Assessors' Association and representatives of taxpayers.~~

21 ~~(2) On and after January 1, 2012, taxpayers filing a property~~
22 ~~tax statement shall use the equipment category codes specified in~~
23 ~~paragraph (1).~~